

MT LEGISLATIVE HISTORY

Chapter 472 19 79

Bill H 302 S _____

Original bill & hist. ____C

H. Committee on Lab. & Emp. Rel.

S. Committee on Lab. & Emp. Rel.

Hearing Date(s) Feb. 1 ____C

Hearing Date(s) March 1 ____C

Feb. 1 ____C

March 1 ____C

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Date Out Feb. 1 ____C

March 1 ____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 29	"An act to amend section 39-3-604, MCA, to delete a reference to a certificate issued under what is now a repealed section."	1/16/79	Hafferman	2/8/79	DO PASS	2/10/79
HB 212	"An act relating to collective bargaining of public employees; excepting confidential employees from the definition of a public employee; restricting labor organizations representing..."	1/17/79	South	1/30/79	AS AMENDED DO PASS	2/6/79
HB 214	"An act to revise the laws relating to apprenticeship programs, requiring the Department of labor and industry to provide assistance in developing on-the-job..."	1/17/79	Dozier	1/30/79	AS AMENDED DO PASS	2/1/79
HB 290	"An act to raise the rate of pay from \$40 to \$56 a day for special deputy state fire marshals; amending section 50-3-106, MCA, and providing an immediate effective date."	1/22/79	Johnston	2/1/79	DO PASS	2/1/79
HB 302	"An act to provide arbitration between a public employer and a firefighters' organization or its exclusive representative."	1/23/79	Quilici	2/1/79	DO PASS	2/6/79
HB 306	"An act providing for required rehabilitation programs under certain conditions for individuals receiving workers compensation benefits."	1/23/79	Gould	2/1/79	AS AMENDED DO PASS	2/1/79

1 *HOUSE* BILL NO. *302* *Parham*
 2 INTRODUCED BY *Pauline Manning*
 3 *Mannahan* *NATHE* *Paul* *Sanchez* *Daly*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE ARBITRATION
 5 BETWEEN A PUBLIC EMPLOYER AND A FIREFIGHTERS' ORGANIZATION
 6 OR ITS EXCLUSIVE REPRESENTATIVE."
 7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Arbitration between firefighters and public
 10 employers. (1) This section applies only to firefighters
 11 and their public employers.

12 (2) If an impasse is reached in the course of
 13 collective bargaining between a public employer and a
 14 firefighters' organization or its exclusive representative
 15 and if the procedures for mediation and factfinding in
 16 sections 39-31-307 through 39-31-310 have been exhausted,
 17 either party or both jointly may petition the board for
 18 final and binding arbitration.

19 Section 2. Designation of arbitrator. Within 3 days of
 20 the receipt of a petition for final and binding arbitration,
 21 the board shall submit to the parties a list of five
 22 qualified and disinterested arbitrators. From the list
 23 submitted by the board, the parties shall alternately strike
 24 two names. The remaining person shall be designated as the
 25 arbitrator. The parties shall notify the board of the

1 designated arbitrator within 5 days of the receipt of the
 2 list.

3 Section 3. Powers and duties of arbitrator for
 4 firefighters and public employers. (1) The arbitrator shall
 5 establish dates and a place for hearings and may subpoena
 6 witnesses and require the submission of evidence necessary
 7 to resolve the impasse.

8 (2) Prior to making a determination on any issue
 9 relating to the impasse, the arbitrator may refer the issues
 10 back to the parties for further negotiation.

11 (3) The arbitrator shall make a just and reasonable
 12 determination of the matters in dispute within 30 days of
 13 the commencement of the arbitration proceedings. The
 14 arbitrator shall notify the board and the parties, in
 15 writing, of his determination.

16 (4) In arriving at a determination, the arbitrator may
 17 adopt any recommendations made by the factfinder and
 18 arbitrator and shall consider any relevant circumstances
 19 including:

20 (a) comparison of hours, wages, and conditions of
 21 employment of the employees involved with employees
 22 performing similar services and with other services
 23 generally;

24 (b) the interests and welfare of the public and the
 25 financial ability of the public employer to pay;

1 (c) appropriate cost-of-living indices;

2 (d) any other factors traditionally considered in the
3 determination of hours, wages, and conditions of employment.

4 (5) The determination of the arbitrator is final and
5 binding and is not subject to the approval of any governing
6 body.

7 Section 4. Collective bargaining permitted during
8 arbitration. Nothing prohibits the parties to the impasse
9 from reaching an agreement prior to the rendering of a
10 determination by the arbitrator.

11 Section 5. Cost of arbitration. The cost of
12 arbitration shall be shared equally by the public employer
13 and the firefighters' organization or its exclusive
14 representative.

-End-

FEBRUARY 1, 1979
PROCEEDINGS OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE

The meeting was called to order at 12:30 p.m. by Chairman Williams. The secretary took roll. Representatives Seifert and Teague were excused.

HOUSE BILL 190: Rep. Johnston, sponsor, said he was introducing this bill at the special request of the Fire Marshal's Office. He said it has been many years since they have had a pay increase and the purpose of this bill is to raise the pay from \$40 per day to \$56 per day for special deputy fire marshals. He said the fire marshal hires a deputy only occasionally and he did not think the increase out of line. Rep. Johnston submitted a statement from Robert E. Kelly, State Fire Marshal, in support of the bill (exhibit 1).

The following were proponents to HB 190:

Dave Fisher, Montana Fire Chief's, Butte, said deputies are not used often and the job is worth more than \$40.00 a day.

Art Korn, Montana State Volunteer Firemen's Association, Helena.

Robert Ellis, Montana State Volunteer Firemen's Association, Helena.

There were no opponents.

Questions were asked by the Committee. Rep. Ellerd said he wondered if a fiscal note might be needed. Mr. Fisher said the deputies are paid out of the fire marshal's budget, and the fire marshal always reverts some of his funds back to the general fund at the end of the fiscal year. He said there are only 4 deputies and they are not used all the time.

HOUSE BILL 306: Rep. Gould, sponsor, said this bill was before the Labor Committee 2 years ago and had opposition from Jim Murry, AFL-CIO. Rep. Gould said he recommended putting the bill in a 2 year study and it was put in the Governor's Study on the Handicapped. He said many safeguards were built into the original bill, but were taken out by the Legislative Council when the bill was being drafted. Rep. Gould introduced Norman Grosfield, Division of Worker's Compensation, who spoke in favor of the bill and offered written testimony and amendments to the bill (exhibits 2 & 3).

The following were proponents: James Murry, AFL-CIO, said they support the bill with the amendments. Bob Donaldson, DSRS, spoke in favor of the bill with the amendments. Gerald Neils, Montana Logging Association, and Pat Melby, Alliance of American Ins. spoke in favor of the bill.

There were no opponents. Questions were asked by the committee.

HOUSE BILL 302: Rep. Quilici, sponsor, said this bill applied only to firefighters and their public employers. He said this bill would make it mandatory, if there was an impasse, for both sides to sit down with an arbitrator and come to an agreement.

Proponents to HB 302 were:

Les Nilson, Montana State Fireman's Association; Ray Blehm, Montana State Council of Professional Firefighters & Montana State Firemen's Association (exhibit 4). James Murry, AFL-CIO, said they support the bill, but the binding arbitration should apply to firefighters only and not to other employees.

Opponents were: Jim Nugent, City of Missoula, (exhibit 5). Larry McGinley, Butte, offered amendments (exhibit 6). Jim Campbell, City of Helena, (exhibit 7). W. Doyle Williams, City of Great Falls, (exhibit 8). Harold Guthrie, City of Livingston, (exhibit 9). Ed Sedivy, City of Bozeman, (exhibit 10). Richard Larsen, City of Billings, (exhibit 11).

Rep. Quilici closed the hearing. He said he knew there would be a lot of opposition when it comes to binding arbitration. He asked the Committee to consider all the testimony of proponents and opponents when making their decision on this bill.

EXECUTIVE SESSION

HOUSE BILL 214: It was moved by Rep. Dozier that HB 214 AS AMENDED, DO PASS. The motion carried unanimously. Rep. Manning made a motion to place HB 214 on the consent calendar. Motion carried unanimously.

HOUSE BILL 323: It was moved by Rep. Harrington that HB 323 DO PASS. The motion carried unanimously. Rep. Manning moved to place HB 323 on the consent calendar. Motion carried unanimously.

HOUSE BILL 306: Rep. O'Connell made a motion that HB 306 AS AMENDED, DO PASS. Motion carried unanimously.

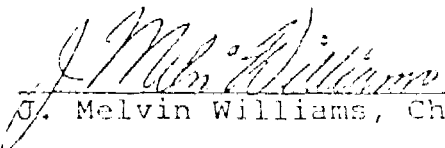
Rep. Stobie objected to so many bills being placed on the consent calendar. He said he thought the bills should have some debate.

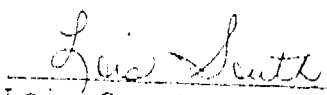
HOUSE BILL 290: It was moved by Rep. O'Connell that HB 290 DO PASS. Motion carried unanimously.

HOUSE BILL 200: Rep. Harrington made a motion that HB 200 DO NOT PASS. Motion carried 14-1. Rep. Underdal voted no.

HOUSE BILL 189: A motion was made by Rep. Manning that HB 189 DO PASS. Motion carried unanimously.

The meeting adjourned at 2:20 p.m.


J. Melvin Williams, Chairman


Lois South, Secretary

HOUSE BILL 212: The committee discussed the amendments (exhibit 4) to HB 212. Rep. Dozier made a motion to move the amendments. Motion carried unanimously. Rep. O'Connell moved that HB 212 DO PASS AS AMENDED. Motion carried unanimously.

HOUSE BILL 331: It was moved by Rep. Harper that HB 331 DO PASS. Motion carried unanimously.

HOUSE BILL 349: was moved for the day.

HOUSE BILL 378: It was moved by Rep. Manning to adopt the amendments. Motion carried 13-4. Reps. Seifert, Underdal, Stobie, and Ellerd voted no. It was moved by Rep. Manning that HB 378 DO PASS AS AMENDED. Motion carried 13-4. Reps. Seifert, Underdal, Stobie, and Ellerd voted n

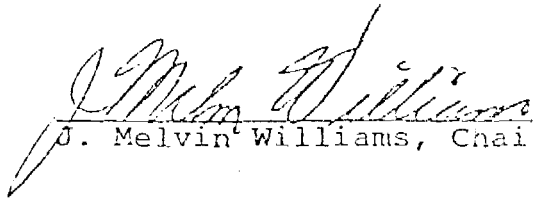
HOUSE BILL 302: It was moved by Rep. Menahan that HB 302 DO PASS. Motion carried. Reps. Seifert, Wyrick, Stobie, Fagg, Porter, Ellerd, and Underdal voted no.

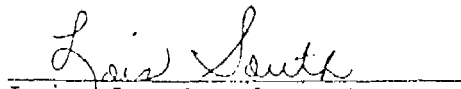
HOUSE BILL 333: It was decided that HB 333 should be held for a fiscal note.

HOUSE BILL 349: It was decided that HB 349 should be held for a fiscal note.

HOUSE BILL 362: It was moved by Rep. Menahan, seconded by Rep. O'Connell that HB 362 DO NOT PASS. A substitute motion was made by Rep. Fagg that HB 362 be held until next Thursday. Motion carried. Reps. Menahan, Harrington, Pavlovich, and Dassinger voted no.

Meeting adjourned at 3:15 p.m.


J. Melvin Williams, Chairman


Lois South, Secretary

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB #31	1/24/79	2/1/79	2/1/79				2/1/79		
HB #32	1/19/79	1/30/79	2/1/79					2/1/79	
HB #42	1/24/79	2/6/79	2/6/79				2/6/79		
HB #62	1/24/79	2/6/79	2/6/79				2/6/79		
HB #129	2/17/79	3/6/79	3/6/79						3/6/79
HB #146	1/26/79	2/8/79	2/8/79				2/8/79		
HB #147	1/27/79	2/8/79	2/8/79						TABLED
HB #159	1/27/79	2/13/79	2/22/79				2/22/79		
HB #183	1/26/79	2/8/79	2/8/79				2/8/79		
HB #190	2/20/79	3/15/79	3/20/79					3/20/79	
HB #212	2/13/79	3/3/79	3/3/79					3/3/79	
HB #214	2/8/79	3/1/79	3/1/79					3/1/79	
HB #302	2/15/79	3/6/79	3/8/79					3/8/79	
HB #306	2/8/79	3/1/79	3/1/79				3/1/79		
HB #331	2/13/79	3/1/79	3/1/79				3/1/79		
HB #349	2/20/79	3/6/79	3/8/79					3/8/79	

Use a separate sheet for Senate, House Bills, and resolutions.

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 6, 1979

The meeting of the Labor and Employment Relations Committee was called to order by Vice-Chairman Harold C. Nelson at 1:00 p.m. in Room 404 of the State Capitol on March 6, 1979.

ROLL CALL: All members were present with the exception of Senator Hafferman who arrived late and Senator Lowe who was excused.

Vice-Chairman Nelson opened the hearing on House Bill #129 sponsored by Representative Pavlovich of District 86. Representative Pavlovich asked the Committee to kill the bill as he was asked by the Department of Labor and Industry not to let the bill go through.

Senator Smith moved not to pass House Bill #129 which passed unanimously.

The hearing was then opened on House Bill #302 sponsored by Representative Quilici of District 84. Representative Quilici explained that this act provided binding arbitration between a public employer and a firefighters' organization or its exclusive representative. Mr. Quilici explained that he had been asked by the firefighters to present this legislation. Mr. Quilici stated that the firefighters were showing good faith by asking for this type of legislation in that they did not want to strike and put the cities in jeopardy during the negotiations of a contract.

Mr. Ray Blehm, Jr., representing the Montana State Firemen's Association then addressed the Committee in favor of House Bill #302. Mr. Blehm's testimony is attached as Exhibit "A". Mr. Blehm also proposed an amendment to this bill as follows:

Page 2, line 12.

New subsection (3): "At the conclusion of the hearings the arbitrator shall require the parties to submit their respective final position on matters in dispute."

Renumber: subsequent sections.

Page 2, line 13.

After "determination of"

Strike: "The matters in dispute"

Insert: "which final position on matters in dispute will be adopted"

Page 2, line 17.

Strike: "may"

Page 2, line 18.

Strike: line 18 in its entirety

Page 2, line 19.

Strike: "arbitrator and"

Mr. Les Nilson, representing the Montana State Firemen's Association, also spoke in favor of the bill. Mr. Nilson stated that he felt this bill would better motivate both sides to reach an agreement without a work stoppage. Mr. Vern Erickson also of the Montana State Firemen's Association spoke in favor of the bill. Mr. Erickson also felt that this type of legislation would motivate both parties to become serious about the arbitration process and urged the Committee to support this bill.

Vice-Chairman Nelson then asked for opponents to House Bill #302. The following opponents addressed the Committee and urged a do not pass. Mr. Terry O. Mattison, representing the Billings City Council, spoke in opposition to this bill and his testimony is attached as Exhibit "B". Mr. Mattison also added to his written testimony that the Council felt that the arbitration should be left to the officials responsible to the taxpayers.

Mr. Dan Mizner, Executive Director of the League of Cities and Towns also spoke in opposition to House Bill #302. Mr. Mizner felt that the arbitration should be left to the people who were accountable to the taxpayers for the way that they spent their money. Mr. Mizner also stated that compulsory arbitration provisions had been declared unconstitutional in some states.

Mr. Jim Nugent, representing the City of Missoula, stated that the existing law already recognized and allowed final and binding arbitration. Mr. Nugent stated that there were several approaches or procedures available for use in establishing an arbitration procedure and that House Bill #302 established a procedure for a select group. Mr. Nugent stated that the local government was better able to manage its own affairs and knew what they wanted within a labor contract. Mr. Nugent pointed out that the bill did not specify which side had the right to strike the first name on the arbitrator list.

Mr. Bill Verwolf, representing the City of Helena, testified against the bill and his testimony is attached as Exhibit "C". Mr. Kent Rodebaugh, representing the City of Great Falls, also testified against the bill and this testimony is attached as Exhibit "D".

Representative Quilici then closed for the Committee indicating that the elected officials in most cases were not the individuals during the arbitrating in labor contracts. Mr. Quilici further stated that the firemen did not want strikes and urged the Committee to pass the bill.

After a short question and answer period, the hearing was closed on House Bill #302.

The only opponent to the Resolution was Mr. Don Judge, representing the AFSCME, AFL-CIO. Mr. Judge explained that his organization did not oppose training for any purpose, but indicated that the Employment Security Commission and other programs in the community were doing basically the same thing. Mr. Judge did submit an amendment, which if included in the Resolution, his organization would support. Mr. Judge's amendment is attached as Exhibit "L".

Representative Marks stated that he had no objection to Mr. Judge's amendment with the exception of the list of names of the people participating in the program. He felt that these names should remain confidential and Mr. Judge agreed.

Members of the Committee felt that a Fiscal Note should be attached to this Resolution and asked the Secretary to obtain one before considering this Resolution for executive action.

The Secretary was also informed that should House Bill #302 be passed out of Committee, Senator Blaylock would carry this bill on the floor.

There being no further business, the meeting adjourned at 2:20 p.m.



Senator Harold C. Nelson,
Vice-Chairman

Senator Dover then moved the amendment proposed by Mr. Oppedahl which carried unanimously. Senator Dover then moved the bill as amended which also carried unanimously. Senator Dover also agreed to carry the bill on the floor.

Chairman Lowe then asked the Committee to take executive action on the bills still remaining in the Committee.

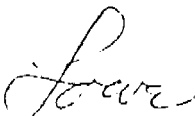
House Bill #378, Enforcement of Maternity Leave, was then discussed by the Committee. Senator Palmer moved to pass and a roll call vote was taken which is attached hereto. The bill passed 6 - 2 with Senator Smith's vote having been left before the meeting. Senator Dover agreed to carry this bill on the floor.

House Bill #302, Binding Arbitration for Firefighters, was then taken under consideration. Mr. Ray Blehm, Jr., representing the Montana State Firemen's Association, had previously proposed some amendments to this bill. The Committee discussed the amendments and Senator Dover moved the amendments which carried unanimously. Senator Palmer moved the bill and a roll call vote was taken and the bill passed as amended 7 - 2 with Senators Smith and Mehrens' votes received prior to the taking of the vote. The amendments on House Bill #302 are attached in the Standing Committee Report. Senator Blaylock will carry House Bill #302.

House Bill #349, Final Orders Concerning Unfair Labor Complaints be Issued within 6 Months, was then discussed by the Committee. Representative Anderson submitted an amendment which he had asked Mr. Oppedahl to present to the Committee changing the 6 months time limit to 5 months. Senator Severson moved the amendment which carried unanimously. Senator Nelson moved the bill as amended which carried unanimously. Senator Palmer agreed to carry this bill on the floor.

House Joint Resolution #24 was then taken into consideration by the Committee. Senator Palmer asked the Committee to postpone taking action on this resolution until he had a chance to study it further since he was absent during the testimony. The Committee agreed not to take executive action on this resolution at this time.

There being no further business, the meeting was adjourned at 2:15 p.m.



Senator William R. Lowe, Chairman

STANDING COMMITTEE REPORT

March 3 19 79

MR. PRESIDENT:

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 302

Quillici (Blaylock)

Respectfully report as follows: That HOUSE Bill No. 302
third reading bill, be amended as follows:

1. Page 2.

Following: line 11

Insert: "(3) At the conclusion of the hearings the arbitrator shall
require the parties to submit their respective final position on
matters in dispute."

Renumber: subsequent subsections

2. Page 2, line 13.

Following: "determination of"

Strike: "the matters in dispute"

Insert: "which final position on matters in dispute will be adopted"

3. Page 2, line 17 through line 19.

Following: "arbitrator"

Strike: the remainder of line 17 through "and" on line 19

And, as so amended

BE CONCURRED IN

~~DOFASXX~~

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date 3-8-79 Bill No. 302 Time 2:00

NAME	YES	NO
HAROLD C. NELSON, VICE CHAIRMAN		✓
GARY AKLESTAD		✓
HAROLD L. DOVER	✓	
WILLIAM F. HAFFERMAN	✓	
JOHN (SANDY) MEHRENS	✓	
BOB PALMER	✓	
ELMER D. SEVERSON	✓	
RICHARD G. SMITH	✓	
BILL R. LOWE, CHAIRMAN	✓	

A. V. Lubner
Secretary

Low
Chairman

Motion: Do Pass, As Amended

(include enough information on motion---put with yellow copy of committee report.)

HOUSE BILL NO. 302

INTRODUCED BY QUILICI, MANNING, DUSSAULT, PAVLOVICH,

MENAHAN, NATHE, FEDA, HARRINGTON, DAILY

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE ARBITRATION BETWEEN A PUBLIC EMPLOYER AND A FIREFIGHTERS' ORGANIZATION OR ITS EXCLUSIVE REPRESENTATIVE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Arbitration between firefighters and public employers. (1) This section applies only to firefighters and their public employers.

(2) If an impasse is reached in the course of collective bargaining between a public employer and a firefighters' organization or its exclusive representative and if the procedures for mediation and factfinding in sections 39-31-307 through 39-31-310 have been exhausted, either party or both jointly may petition the board for final and binding arbitration.

Section 2. Designation of arbitrator. Within 3 days of the receipt of a petition for final and binding arbitration, the board shall submit to the parties a list of five qualified and disinterested arbitrators. From the list submitted by the board, the parties shall alternately strike two names. The remaining person shall be designated as the

arbitrator. The parties shall notify the board of the designated arbitrator within 5 days of the receipt of the list.

Section 3. Powers and duties of arbitrator for firefighters and public employers. (1) The arbitrator shall establish dates and a place for hearings and may subpoena witnesses and require the submission of evidence necessary to resolve the impasse.

(2) Prior to making a determination on any issue relating to the impasse, the arbitrator may refer the issues back to the parties for further negotiation.

~~(3) AT THE CONCLUSION OF THE HEARINGS, THE ARBITRATOR SHALL REQUIRE THE PARTIES TO SUBMIT THEIR RESPECTIVE FINAL POSITION ON MATTERS IN DISPUTE.~~

~~(3)(4)~~ The arbitrator shall make a just and reasonable determination of the matters-in-dispute WHICH FINAL POSITION ON MATTERS IN DISPUTE WILL BE ADOPTED within 30 days of the commencement of the arbitration proceedings. The arbitrator shall notify the board and the parties, in writing, of his determination.

~~(4)(5)~~ In arriving at a determination, the arbitrator may adopt any recommendations made by the factfinder and arbitrator and shall consider any relevant circumstances including:

(a) comparison of hours, wages, and conditions of

1 employment of the employees involved with employees
2 performing similar services and with other services
3 generally;

4 (b) the interests and welfare of the public and the
5 financial ability of the public employer to pay;

6 (c) appropriate cost-of-living indices;

7 (d) any other factors traditionally considered in the
8 determination of hours, wages, and conditions of employment.

9 ~~(5)~~(6) The determination of the arbitrator is final
10 and binding and is not subject to the approval of any
11 governing body.

12 Section 4. Collective bargaining permitted during
13 arbitration. Nothing prohibits the parties to the impasse
14 from reaching an agreement prior to the rendering of a
15 determination by the arbitrator.

16 SECTION 5. THERE IS A NEW MCA SECTION THAT READS:

17 Strikes limited. Strikes are prohibited during the term
18 of any contract and the negotiations or arbitration of that
19 contract.

20 Section 6. Cost of arbitration. The cost of
21 arbitration shall be shared equally by the public employer
22 and the firefighters' organization or its exclusive
23 representative.

-End-